

BACKGROUND TO MONTANA PETROLEUM MARKETER'S AMENDMENTS TO SB 67

The intent of the proposed amendments is to provide more notice to retailers and wholesalers as to what specific pricing actions are prohibited.

Section 1(1): Deleted "food, water, fuel, shelter, transportation, and medical supplies" as new definition of essential good or service is added. Deleted 'or outside', limiting the government's authority to declare an abnormal market disruption based on an emergency occurring outside of Montana. Pricing controls ought to be used sparingly and only for localized emergencies.

Section 1(2): "Affected area" is now limited to the State of Montana, eliminating the possibility of a county-by-county declaration.

Section 1(3): Added definition of essential good or service.

Section 1(4): Added term 'intentional' to require a state of mind component to the offense of hoarding and replaced the term 'product' with the term 'good' for consistency in usage throughout the bill.

Section 1(5)(b): Deleted 'daily' definition of 'incident' in favor of a penalty cap provided in New Section 7(2).

Section 2(1)(c): Added burden of proof to obtain a court finding of abnormal market disruption and deleted authority of county attorneys to bring such a petition.

Section 3(1): Deleted county attorney provision at the request of the Montana County Attorneys' Association.

Section 3(2): Deleted prohibition of a stay of a court's finding of an abnormal market disruption to preserve the Montana Supreme Court's appellate powers and due processes of law.

Section 4(1): Changes in language provide more guidance to retailers and wholesalers as to what pricing is illegal during a period of emergency or abnormal market disruption.

Section 4(2): Changes result in a 'spot' check standard of illegality-- a seller's prices are compared to a competitor within a 50-mile radius. If the seller's price exceeds its competitor's price by 20% or more, a prima facie case of illegality is established, subject to the defenses already provided in the bill.

Section 5: Added provision allowing a retailer to close its business during a period of emergency or abnormal market disruption based on legitimate business reasons (e.g. product or employee shortages).

Section 6(2): Added term 'essential' to provide uniformity within the bill.

Section 7: Deleted criminal penalties and enforcement provisions relating to county attorneys and changed civil penalty to \$1,000 per incident, with a cap of \$25,000 per period of emergency or abnormal market disruption.